

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

MOUNTAINTRUE, SIERRA CLUB,	)	Case No. 1:25-cv-91-MR-WCM
CENTER FOR BIOLOGICAL	)	
DIVERSITY, and DEFENDERS OF	)	
WILDLIFE, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
UNITED STATES FOREST SERVICE,	)	
and JAMES MELONAS, in his official	)	
capacity as Forest Supervisor for the	)	
National Forests of North Carolina,	)	
	)	
Defendants.	)	
<hr/>	)	

**DEFENDANTS' MOTION TO DISMISS**

Defendants United States Forest Service and James Melonas, in his official capacity as Forest Supervisor for the Nantahala and Pisgah National Forests, move to dismiss Plaintiffs' Complaint under Federal Rule of Civil Procedure 12(b)(1). Plaintiffs' Complaint is a facial challenge to the 2023 Land Management Plan for the Nantahala and Pisgah National Forests. The Court lacks subject matter jurisdiction over this action for two independent reasons. First, Plaintiffs' challenge is not ripe for review. Second, Plaintiffs fail to demonstrate an injury-in-fact required to establish Article III jurisdiction. Plaintiffs' challenge is justiciable only in the context of a specific application of the Forest Plan, which Plaintiffs do not allege in their Complaint.

This motion is supported by the accompanying brief in support, forthcoming reply brief, and upon such oral and/or documentary evidence as may be presented at, before, and after any hearing of this motion.

Respectfully submitted on this 8th day of May, 2025.

RUSS FERGUSON  
United States Attorney

/s/ Gill P. Beck  
Gill P. Beck  
Assistant United States Attorney  
Chief, Civil Division

N.C. State Bar No. 13175  
Room 233, U.S. Courthouse  
100 Otis Street  
Asheville, North Carolina 28801  
(828) 271-4661  
Gill.Beck@usdoj.gov

ADAM R.F. GUSTAFSON  
Acting Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

/s/ John P. Tustin  
JOHN P. TUSTIN (TX Bar No. 24056458)  
Senior Attorney  
Natural Resources Section  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Phone: (202) 305-3022  
Fax: (202) 305-0275

*Attorneys for Defendants*

## **CERTIFICATION**

Pursuant to the Standing Order of this Court entered June 18, 2024, and published to the Bar of the Western District on June 27, 2024, the undersigned hereby certifies:

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg;
2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction (or the party making the filing if acting pro se) as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

Dated this 8th day of May, 2025.

/s/ John P. Tustin  
JOHN P. TUSTIN